

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

ESTEBAN LUCIO,  
 #81601

Plaintiff,

vs.

MONTE HANSEN, *et al.*,

Defendants.

3:11-cv-00040-HDM-RAM

**ORDER**

A prisoner filed this civil action in the Seventh Judicial District Court of the State of Nevada, and defendants removed on the basis that the complaint alleges a cause of action pursuant to 42 U.S.C. § 1983 (docket #1). Plaintiff has filed a motion to amend his complaint to omit any reference to § 1983 and to remand to state court (docket #6).

Plaintiff, who is incarcerated at Southern Desert Correctional Center, has sued the Nevada Department of Corrections, its Director Howard Skolnik, and a correctional officer. Plaintiff styles his complaint as a tort action. He alleges that the officer was negligent when he was transporting plaintiff by van and struck a deer, demolishing the vehicle and injuring plaintiff's shoulder. Plaintiff does not allege any federal claims, though he does state that the complaint is brought pursuant to 42 U.S.C. § 1983.

1                   However, on March 3, 2011, plaintiff filed a motion to amend his complaint to “remove  
2 42 U.S.C. § 1983” (docket #6) and to remand the action to state court. Defendants filed a response  
3 indicating that they take no position on plaintiff’s motion (docket #7).

4                   **IT IS THEREFORE ORDERED** that the Clerk shall **FILE** the complaint (docket #1-2).

5                   **IT IS FURTHER ORDERED** that plaintiff’s motion to amend is **GRANTED** and any  
6 claim asserted under 42 U.S.C. § 1983 is dismissed.

7                   IT IS FURTHER ORDERED that plaintiff’s motion to remand (docket #6) is  
8 **GRANTED**.

9                   **IT IS FURTHER ORDERED** that this action is **REMANDED** to the Seventh Judicial  
10 District Court of the State of Nevada, in and for Lincoln County. The Clerk of Court shall mail a  
11 certified copy of this Order to the Seventh Judicial District Court in Lincoln County.

12                   **IT IS FURTHER ORDERED** that the Clerk shall enter judgment accordingly and close  
13 this case.

14                   DATED this 6th day of April, 2011.

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16                   *Howard D. McMillen*

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18 UNITED STATES DISTRICT JUDGE  
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